IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE FIFTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI

&
THE HON'BLE MR. JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 559 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 20-01-2004 in W.P.No.4764 of 1995 on the file of the High Court.)

Between:

1. The General Insurance Corporation of India, Industrial Assurance

Building, Church Gate, Bombay, rep. by its Chairman & Managing Director.
2. The United India Insurance Co. Ltd., Head Office at 24, Whites Road,

Madras, rep. by its Chairman & Managing Director.
3. The Regional Manager, United India Insurance Co. Ltd, Regional Office,

50-81-1, Rajendranagar, Visakhapatnam.

APPELLANTS.

AND

N. Satya Rao, s/o N. Chander Rao, 36 years, working as Agent, United

India Insurance Co. Ltd, Vella, East Godavari District R/o Vella.

RESPONDENT.

Counsel for the Appellants: MR.K.SRINIVASAMURTHY.

Counsel for the Respondent: MR.N.RAMAMOHANA RAO

The Court made the following:

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JUDGMENT: (Per the Honourable Sri Justice S.Ananda Reddy)

This writ appeal is filed by the respondents in the writ petition aggrieved by the direction issued by the learned single Judge in the writ petition.

The respondent herein is the writ petitioner. He filed the writ petition seeking a writ of Mandamus directing the respondents-appellants-1 and 2 to take into account the result in the Inspectors' Examination (General Insurance) passed by him in April, 1988 conducted by the Insurance Institute of India, Bombay and allow him to duty as a Marketing Trainee and subsequently as a Probationary Development Officer forthwith.

The grievance of the writ petitioner was that though he has completed the training as well as successfully passed the test conducted by the Insurance Institute of India, Bombay but still the appellants-authorities did not consider his case for being appointed as a Development Officer.

The learned single Judge having considered the rival contentions directed the appellants to consider the case of the writ petitioner for appointment as Development officer on probation ignoring the fact that he had passed the Inspectors' examination prior to the completion of two years training, within a period of three months from the date of receipt of a copy of that order.

In the appeal, the grievance of the appellants is that under the scheme of the training and the appointment as Development Officers, one has to undergo a training for a period of two years successfully, and thereafter, he has to appear for the examination conducted by the

Insurance Institute of India, Bombay and if he successfully completes the said examination also, then he would be considered for the appointment as Development Officer and not otherwise.

It is also the contention of the learned counsel appearing for the appellants-authorities that though the writ petitioner passed the stipulated test and completed the training, but he has appeared for the test even prior to the completion of training for a period of 2 years. Therefore, the said examination passed by him would not be considered. The learned counsel placing reliance on the conditions stipulated by the appellants-authorities, also contended that the direction given by the single Judge is not sustainable, and therefore, the same is liable to be set aside.

The learned counsel appearing on behalf of the writ petitioner, on the other hand, supported the order of the learned single Judge. Further, it is contended that before his candidature is considered for appointment as Development Officer, he is required to comply with two requirements viz., 1. he has to successfully complete the training for a period of two years and 2.in addition to that, he has to pass successfully the test conducted by the Insurance Institute of India, Bombay. According to the learned counsel, the writ petitioner has complied with both the requirements, but only on the premise that he has passed the examination even prior to the completion of training the appellants denied his claim for being considered for appointment as Development Officer on probation. Therefore, the learned single Judge has rightly directed the appellants-authorities to consider the case of the writ petitioner for being considered without reference to the relevant date of passing of the examination as well as the completion of training. Therefore, the learned counsel sought to dismiss the writ appeal.

Heard both sides and considered the material on record.

The issue in dispute, which is in a narrow compass, is as to whether a trainee has to complete the training and thereafter, pass the examination before being considered as a Development Officer as per the conditions stipulated under the Scheme. Paragrapghs 2 and 12 are relevant clauses for this purpose and they are being extracted as under:

Clause NO.2:

> *'In order that you may be able to acquire adequate knowledge and necessary skills to make a professional career in General Insurance selling and servicing, you will be given 2 weeks' intensive theoretical training and practical training extending normally to 2 years reckoning from the date of*

commencement as stated above. Through the period of training you will strictly adhere to abide by and conform to all instructions issued to you and you will apply yourself assiduously and conscientiously to your indoor and outdoor training activities as may be prescribed from time to time.'

Clause No.12:

"On satisfactory undergoing full training as envisaged in para 2 above, you will be awarded certificate of proficiency testifying to your competence as a General Insurance Agent. Normal Agency Commission for such business promptly canvassed and introduced by you may be applicable thereafter, and you shall be governed by the provisions of the Agency Code in force from time to time. Company, however, may consider offering you appointment as Development Officer on probation in due course of time subject to your passing the Licentiate/Devp. Officers' Examination."

A perusal of the above relevant paragraphs of the scheme clearly shows that a person has to undergo the training in order to acquire adequate knowledge and necessary skills to make a professional career in general Insurance selling and servicing. Such training would be clearly for a period of 2 years. Such a trainee would be considered for the appointment of Development Officer subject to passing the Licentiate/Development Officers Examination conducted by the Insurance Institute of Bombay. However, A reference to the above relevant paragraphs, does not contemplate that the relevant examination has to be passed only after completion of the training period. On the other hand, the requirements for being considered for appointment as Development Officer are that one has to complete the training period for a period of two years and in addition to that, he has to pass the test i.e., Licentiate/Development Officers examination.

Admittedly, in the present case, the writ petitioner has completed the training and also passed the stipulated test. But, here the facts disclose that the writ petitioner passed the test even prior to completing the training period. Therefore, the appellants-authorities considered him as unfit for being considered for the appointment as Development Officer. According to the appellant authorities, one has to appear and complete the examination only after completion of training. But as already observed, a perusal of the relevant paragraphs as extracted earlier, does not infer such an interpretation. The requirements are only successful completion of training as well as the passing test as stipulated. Admittedly, the petitioner has fulfilled both the requirements.

Under the above circumstances, the action of the appellants-authorities in not considering the claim of the writ petitioner is clearly illegal and unsustainable. However, We modify the finding of the learned single Judge to the extent that the appellants-authorities are directed to consider the case of the writ petitioner for being appointed as Development Officer if he fulfills the other requirements, if any and pass appropriate orders within a period of thee months from the date of receipt of a copy of this order.

With the above modification, the writ appeal is dismissed.

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Justice T.Meena Kumari

Date: 15th February, 2005

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Justice S.Ananda Reddy

Dvs/Gurc.

Copies to:

1. The Chairman & Managing Director, The General Insurance

Corporation of India, Industrial Assurance Building, Church Gate,

Bombay,
2. The Chairman & Managing Director, The United India Insurance Co.

Ltd., Head Office at 24, Whites Road, Madras.
3. The Regional Manager, United India Insurance Co. Ltd, Regional

Office, 50-81-1, Rajendranagar, Visakhapatnam.

4. Two CD copies.

THE HONOURABLE SMT. JUSTICE T.MEENA KUMARI

&

THE HONOURABLE SRI JUSTICE S.ANANDA REDDY

W.A.No: 559 OF 2004

(Judgment delivered by Sri Justice S.Ananda Reddy)

15th FEBRUARY, 2005